

Fish Funding Measures in 2007-2009 Wholesale Power Rate Case

At the Status Conference on July 21, 2006, the Court inquired whether the Bonneville Power Administration's recently announced wholesale power rate reduction put at risk BPA's commitment to fund measures that it may agree to undertake through its Proposed Actions under the 2004 FCRPS Biological Opinion. In proposing new rates for the 2007-2009 period, BPA fully considered both (1) financial risks that could cause BPA to limit actions that benefit fish and wildlife in the future in order to reduce costs, and (2) the risk of the potential for increased fish and wildlife funding.

During the rate case, BPA explicitly recognized risk in all the aspects it could identify and went to unprecedented lengths to create a high likelihood that BPA will be able to cover all costs without risking currently planned fish and wildlife protection. For example:

- BPA is setting power rates at a level that provides the highest probability that BPA has ever had of repaying the U.S. Treasury. BPA pays Treasury only after all other costs are covered, so this is an extremely strong indicator of BPA's ability to cover costs included in the rate case.
- In calculating the Treasury Payment Probability, BPA included sources of risk not previously modeled, which made the risk analysis more conservative.
- BPA used forecasts of future market prices for its surplus power sales that are lower than most other forecasts – an additional layer of conservatism.
- BPA has gone from a five-year rate period to a three-year rate period, greatly reducing the risk of any changes in the underlying assumptions used in setting rates.
- The contractual prohibition on re-setting rates has been eliminated as of 2007. Although it would be time consuming, if absolutely necessary, BPA could change the rates by conducting a new rate case before the end of the 2007-2009 rate period.

In addition, despite the fact that there has been no decision about post-2006 river operations, BPA built in the assumption in the base case that the Court-ordered spill increases in 2006 would continue in 2007 and 2008. In effect, this means the costs for fish and wildlife mitigation embedded in the base rates are higher than in current rates.

To specifically address the potential of future fish and wildlife costs that might result from Endangered Species Act litigation pending before this Court, BPA instituted additional measures. BPA included a cost recovery adjustment clause (CRAC) mechanism that allows BPA to raise rates at the beginning of its fiscal year by as much as \$300 million a year, if necessary, to recover from any circumstances that causes BPA to have a bad year financially.

To bolster the CRAC, BPA included two adjustments that can be implemented if necessary to address future fish costs.

The first adjustment, the NFB* Adjustment, allows BPA to raise the CRAC cap to recover new incremental fish recovery costs related to the Biological Opinion in order to not jeopardize Treasury repayment. The second adjustment, known as the Emergency NFB Surcharge, was instituted largely to reflect the concerns of fish advocates. This surcharge allows BPA to raise rates on very short notice, without waiting for the next fiscal year, to recover incremental fish recovery costs associated with the NFB if the probability of repaying Treasury drops so low that BPA cannot wait until the following year's CRAC to cover incremental fish costs. Consequently, the rate case provides a high level of assurance that BPA will be able to cover potential fish recovery costs associated with the NFB once they are known.

Despite this strong risk protection package and projection of increased fish and wildlife mitigation costs, BPA was able to reduce its wholesale power rates by 3 percent because of efforts to cut non-fish costs, an above-average water year in 2006 and creative new measures implemented in collaboration with BPA's customers designed to improve how BPA manages financial risk.

The measures outlined above essentially address how BPA is prepared to meet future incremental costs related to the Biological Opinion. They are in addition to a substantial funding base that supports high priority ESA actions. BPA has increased the funding for the fish and wildlife direct program in the next rate period from \$139 million average annual expense to \$143 million average annual expense. BPA intends to allocate those funds in a way that gives more to on-the-ground actions for fish – such as hatcheries and fish passage facilities – and priority to ESA listed fish.

In summary, BPA has taken substantial actions to limit the potential for having to curtail currently planned fish and wildlife mitigation, while also creating rate adjustments for costs that may be incurred to address pending ESA litigation. Moreover, BPA has included in its base budgets the continuation of Court-ordered operation for 2006 through 2008 even though the Court has not yet addressed this issue.

BPA remains committed to meeting its responsibilities to the region's fish and wildlife and believes that the extraordinary steps it has taken in the recent rate case underscore that commitment.

*NFB stands for **N**ational Marine Fisheries Service **F**ederal Columbia River Power System **B**iological Opinion.